

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

CHRISTOPHER ALLEN BOWEN, )  
                                )  
Plaintiff,                   )  
                                )  
v.                             )       Case No. 7:06cv00305  
                                )  
NEW RIVER VALLEY           )  
REGIONAL JAIL,             )  
SOUTHERN HEALTH PARTNERS, )  
MARGARET FALLS,           )  
and                            )  
REBECCA TATUM,            )  
                                )  
Defendant.                  )

**MOTION TO DISMISS OF DEFENDANT NEW RIVER VALLEY  
REGIONAL JAIL AUTHORITY**

COMES NOW a Defendant, New River Valley Regional Jail Authority, mistakenly sued as New River Valley Regional Jail, and moves to dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and in support thereof states as follows:

1.       New River Valley Regional Jail is not an entity capable of being sued pursuant to 42 U.S. § 1983. McCoy v. Chesapeake Correctional Center, 788 F. Supp. 890 (E.D. Va. 1992).
2.       Even if the Court were to grant Plaintiff leave to amend to sue New River Valley Regional Jail Authority, such a suit would only sound in *respondeat superior* and thus would not be appropriate under 42 U.S. § 1983. Monell v. Dept. of Social Services of the City of New York, 436 U.S. 658, 98 S. Ct. 2018, 56 L.Ed.2d 611 (1978).

WHEREFORE, Defendant respectfully moves the Court to dismiss the Complaint for failure to state a claim upon which relief can be granted and for such other relief as the Court may deem appropriate.

NEW RIVER VALLEY REGIONAL JAIL  
AUTHORITY

By /s/ Jim H. Guynn, Jr.

Jim H. Guynn, Jr.

VSB #22299

Attorney for Defendant

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this 7th day of August, 2006, electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to Kevin O. Barnard, Esq., and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: Christopher Allen Bowen, #05-22117, New River Valley Regional Jail, P.O. Box 1067, Dublin, VA 24084 pro se plaintiff.

By /s/ Jim H. Guynn, Jr.